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Legislative Digest

Week of July 10, 2000 Vol. XXIX, #19, July 7, 2000

Monday, July 10

The House will meet at 12:30 p.m. for morning hour and 2:00 p.m. for Legislative Business
(No votes before 6:00 p.m.)

**** Seven Suspensions**

**** One Bill Under a Rule:**

Tuesday, July 11 and the Balance of the Week

The House will meet at 9:00 a.m. for Morning Hour and 10:00 a.m. for Legislative Business
On Wednesday and Thursday the House will meet at 10:00 a.m. for Legislative Business
On Friday the House will meet at 9:00 a.m. for Legislative Business
(On Friday No Votes are Expected After 2:00 p.m.)

**** Three Suspensions**

**** Two Bills Subject to a rule**

⇨To be published in a future issue of the *Legislative Digest*

Eric Hultman: *Managing Editor*
Brendan Shields: *Senior Legislative Analyst*

Courtney Haller, Jennifer Lord
& Greg Mesack: *Legislative Analysts*

Legislative Digest

Expressing the Sense of Congress Regarding the Importance and Value of Education in U.S. History

S. Con. Res. 129

Committee on Education and the Workforce
Introduced by Senator Lieberman on June 30, 2000

Floor Situation:

The House is scheduled to consider the following bill under suspension of the rules on Monday, July 10, 2000. The bill is debatable for 40 minutes, may not be amended, and requires two-thirds majority vote for passage.

Summary:

S. Con. Res. 129 expresses the sense of Congress that (1) America's college graduates do not know enough about American History which should be addressed by the country's higher education community; (2) colleges and universities should review their curricula and add United States history course requirements; (3) state officials responsible for higher education should review higher education curricula and promote requirements in United States history as a general education requirement; (4) parents should encourage their children to choose colleges and universities with American history requirements and to take courses in United States history; and (5) history teachers and educators at all levels should intensify their efforts to reinforce the knowledge of United States history among students of all ages and to restore the vitality of America's civic memory.

Recent studies have shown that general knowledge of American history is on the decline among students at colleges and universities throughout the country. A direct cause of this trend towards is believed to be that all of the United States most elite universities no longer make American history a prerequisite for graduation, and three-fourths do not require any history at all. A recent survey conducted for the American Council of Trustees and Alumni showed that 81 percent of seniors at these colleges and universities could not answer basic high school level questions concerning U.S. history, and little more than half knew general information regarding the Constitution.

Cost/Committee Action:

This measure was approved by Unanimous Consent agreement in the Senate on June 20, 2000 and was not considered by a House committee.

John DeStefano, 226-2302

Deschutes Resources Conservancy Act of 1999

H.R. 1787

House Committee on Resources
No Report Filed
Introduced by Mr. Walden on May 12, 1999

Floor Situation:

The House is scheduled to consider H.R. 1787 under suspension of the rules on Monday, July 10, 2000. It is debatable for 40 minutes, may not be amended, and requires a two-thirds majority vote for passage.

Summary:

H.R. 1787 reauthorizes the participation of the Bureau of Reclamation in the Deschutes Resources Conservancy from FY 2002 through FY 2006. It will also increase the annual appropriation authorization from $1 million to $2 million annually.

The Deschutes Resources Conservancy was authorized in 1996 as a five-year pilot project designed to achieve local consensus on projects to improve ecosystem health in the Deschutes River basin. In the state of Oregon, the Deschutes River drains the high desert along the eastern front of the Cascade Mountains and eventually flows into the Columbia River. The river basin is used for recreation, irrigation, contains hundreds of thousands of acres of productive forest and rangelands, serves the treaty fishing and water rights of The Confederated Tribes of Warm Springs, and has Oregon's largest non-federal hydroelectric project.

Costs/Committee Action:

The bill was reported by voice vote from the Resources Committee on June 21, 2000.

At press time the CBO had not released a cost estimate.

Kimberly Torrence, 226-2302

To Provide for the Establishment of the Cahaba River National Wildlife Refuge in Bibb County, Alabama

H.R. 4286

Committee on Resources
H.Rept. 106-___
Introduced by Mr. Bachus on April 13, 2000

Floor Situation:

The House is scheduled to consider H.R. 4286 under suspension of the rules on Monday, July 10, 2000. It is debatable for 40 minutes, may not be amended, and requires a two-thirds majority vote for passage.

Summary:

H.R. 4286 establishes the Cahaba River National Wildlife Refuge in Bibb County, Alabama. The bill authorizes appropriation of funds to the Secretary of the Interior for the purpose of acquiring 3,500 acres of land and water surrounding the Cahaba River for inclusion in the Refuge. The purposes for the refuge is to conserve, enhance and restore the native water and land community characteristics of the Cahaba River; conserve, enhance and restore habitat to maintain and assist in the recovery of plants and animals listed under the Endangered Species Act of 1973; provide opportunities for compatible fish and wildlife oriented recreation that ensures that hunting, fishing, observation and photography are the primary users of the refuge; and encourage the use of volunteers to promote the public awareness of the Cahaba River National Wildlife Refuge.

The Cahaba River's unique situation renders it a candidate to become a National Wildlife Refuge. It provides habitat for 131 species of fish, more than any other river its size in North America. Twelve of these species of fish are listed as endangered or threatened species. The area surrounding the river is home to six types of plants and land animals that are also on the endangered or threatened species list. There are at least twelve types of endemic aquatic animals found in the Cahaba that are found nowhere else in the world. Similarly, there are at least 8 species of plants not known to exist anywhere else in the world.

Cost/Committee Action:

This bill was reported by the Committee on Resources by unanimous consent on June 28, 2000.

CBO estimates that it will cost $7 million over the next three or four years to acquire and restore all of the new land for the refuge. After the refuge has been established, CBO approximates that $600,000 annually would be required to keep it operational and compliant with the Refuge Revenue Sharing Act.

John DeStefano 226-2302

Reauthorization of the Water Resources Research Act of 1984

H.R. 4132

House Committee on Resources
Introduced by Mr. Doolittle on March 30, 2000

Floor Situation:

The House is scheduled to consider H.R. 4132 under suspension of the rules on Monday, July 10, 2000. It is debatable for 40 minutes, may not be amended, and requires a two-thirds majority vote for passage.

Summary:

H.R. 4132 extends the authorization for appropriations for FY 2001-2005 for funding for state water research institutes under the Water Resources Research Act. The total funding levels for FY 2001-2005 is $53 million, an increase of $16 million over the five years. It also provides new authorization levels for research grants that focus on water problems of an interstate nature of $23 million from FY 2001-2005, an increase of $3 million.

Background:

In 1995, legislation was passed to broaden the Water Resources Research Act. It broadened the law to include natural resources and agricultural systems. It also changed the matching fund requirements for grants to two non-federal dollars for each federal dollar. Other amendments encouraged increased coordination between federal agencies and the water resource research institutes, and supported a program of internships at the undergraduate and graduate levels to carry out the educational and training objectives of the Act. The state water resources research institutes have established an effective federal/state partnership in water resources, education and information transfer.

Cost/ Committee Action:

The bill was reported by voice vote on May 24, 2000.

At press time, a CBO cost estimate was not available.

Kimberly Torrence, 226-2302

National Wildlife Refuge System Centennial Act

H.R. 4442

Committee on Resources
H.Rept. 106-
Introduced by Mr. Saxton *et al.* on May 11, 2000

Floor Situation:

The House is scheduled to consider H.R. 4442 on Monday, July 10, 2000, under suspension of the rules. It is debatable for forty minutes, may not be amended and requires a two-thirds majority vote for passage.

Summary:

H.R. 4442 creates a commission to promote awareness of the National Wildlife Refuge System and plan centennial activities, including a national conference on wildlife refuges. Additionally, this legislation focuses on developing long-term plans to meet priority operations, maintenance and construction needs of the refuge. Finally, the commission would be disbanded by October of 2004.

Background:

The National Wildlife Refuge System began nearly 100 years ago, in 1903 when President Theodore Roosevelt launched the program to preserve Pelican Island, Florida. Today, there are 521 separate refuges and 38 wetland management districts spread across all 50 states and U.S. territories.

Cost/Committee Action:

CBO estimates that enactment of H.R. 4442 would cost $0.9 million over the next four years. Because H.R. 4442 authorizes the new commission to accept and spend donations, pay-as-you-go procedures would apply.

H.R. 4442 was unanimously reported by the Committee on Resources on June 20, 2000 and by the Committee on the Interior on June 28, 2000.

Courtney Haller, 226-6871

Expressing a Sense of the House That There Should Be a National Ocean Day

H.Res. 415

Committee on Resources
No Report Filed
Introduced by Ms. Mink on February 2, 2000

Floor Situation:

The House is scheduled to consider H.Res. 415 under suspension of the rules on Monday, July 10, 2000. It is debatable for 40 minutes, may not be amended, and requires a two-thirds majority for passage.

Summary:

H.Res. 415 expresses the sense of the House that a National Ocean Day should be established to recognize the significant role the ocean plays in the lives of the nation's people, and the important role the nation's people must play in the continued life of the ocean.

Oceans cover 71 percent of the Earth's surface and are key to the life support systems for all creatures on this planet. They contain an abundance and diversity of life, from the smallest micro-organism to the blue whale. Additionally, two-thirds of the world's population lives within 50 miles of an ocean coast and one out of six American jobs is in fishing, shipping, or tourism.

The world's oceans benefit all populations in numerous ways (1) oceanic research has contributed to an understanding of global warming and the effects of the ocean on climate and weather; (2) oceans are a key source of life-saving medicines and treatments; (3) and international trade will nearly triple over the next 2 decades and more than 90 percent of this trade will be transported by ocean. However, the ocean's resources are limited, and nations must work together to preserve them.

Committee Action:

The resolution was reported by voice vote on June 20, 2000.

Brendan Shields, 226-0378

Expressing the Sense of the House on Those People Working to Improve Social and Political Conditions in Vietnam

H.Con.Res. 322

Committee on International Relations
No Report filed
Introduced by Mr. Davis (VA) *et al.* on May 11, 2000

Floor Situation:

The House is scheduled to consider H.Con.Res. 322 on Monday, July 10, 2000, under suspension of the rules. It is debatable for forty minutes, may not be amended and requires a two-thirds majority vote for passage.

Summary:

H.Con.Res. 322 commends the Vietnamese American community for its work in bringing democratic principles and practices to the people of Vietnam. It applauds the contributions of all individuals whose efforts focus international attention on human rights violations in Vietnam.

Background:

Saigon fell to Communist forces on April 30, 1975, after which the oppressive Communist regime was established. Every year, on June 19th, Vietnamese Americans commemorate those who gave their lives to bring freedom and democracy to the former Republic of South Vietnam and the Socialist Republic of Vietnam. Additionally, Vietnamese Americans have used this day to honor individuals who highlight the lack of human rights in the Socialist Republic of Vietnam and remind themselves and others that democracy is precious and should be treasured.

Cost/Committee Action:

The Committee on International Relations reported the resolution by voice vote on June 29, 2000.

Courtney Haller, 226-6871

No Second Chances for Murderers, Rapists, or Child Molesters Act (Aimee's Law)

H.R. 894

Committee on the Judiciary
No Report Filed
Introduced by Mr. Salmon *et al.* on March 2, 1999

Floor Situation:

The House is scheduled to consider H.R. 894 under suspension of the rules on Tuesday, July 11, 2000. It is debatable for 40 minutes, may not be amended, and requires a two-thirds majority vote for passage.

Summary:

H.R. 894 uses federal grants to create a penalty and reward system by forcing states to pay for the conviction and incarceration of a repeat offender if he or she is convicted of a crime in another state.

The bill provides that if a convicted rapist, murderer, or sexual offender one state, released early, and commits a subsequent crime in another state, the federal law enforcement assistance funds (federal grants) for the first state will be reduced and transferred to the state in which the subsequent offense is committed. H.R. 894 restricts the use of funds to pay for the cost of incarceration, prosecution, and apprehension of the criminal. Additionally, the measure mandates that the costs of incarceration will be equally divided among all states that offer early release to a repeat offender who has committed crimes in multiple states.

H.R. 894 contains a provision that if an offender has served 85 percent or more of his or her sentence in a truth-in-sentencing state with a higher than average typical sentence for the crime, then the interstate compensation provision will not take effect. This is designed to provide a "safe-haven" protecting states from unfairly losing federal funds under the bill.

The bill also includes a provision requiring the United States Attorney General to collect yearly data to report to Congress on the number of convictions for murder, rape, and any sex offenses in the United States where (1) the victim has not attained age 14 and the offender has attained age 18; and (2) there are second or subsequent convictions of the defendant for such a crime. Finally, the bill includes a section declaring the sense of Congress that any person convicted of murder, rape, or child molestation should face the death penalty or be imprisoned for life.

Background:

While the United States has been moving towards lengthy mandatory sentences for a number of crimes, such as selling drugs and crimes involving firearms, crimes for child molestation and rape often do not receive such attention. The Justice Department reports that the average time served for rape is five and

half years, for child molestation four years, and murder eight years. As a result of these lenient sentences, more than 14,000 murders, rapes, and sex crimes against minor children are committed by previously convicted and released murders and sex offenders. To reinforce this fact, a 1997 survey by the Justice Department found that 52 percent of discharged rapists and 48 percent of other sexual offenders were rearrested for a new crime, often another sex offense, within three years. Many people feel that these were crimes that could have been prevented had the offenders stayed in prison. This has led for calls to create a legislative remedy that would encourage states to adopt tougher sentences for murders and sex offenders, while not federalizing those crimes.

A problem has been that some states were releasing prisoners early while other states would prosecute and incarcerate them for repeat offenses. This disparity in sentencing unfairly imposes cost burdens on some states due to lax sentencing and lenient parole practices in other states.

Costs/Committee Action:

The bill passed as an amendment to the Juvenile Crime bill last year (H.R. 1150), which is currently in a protracted conference between the House and Senate.

The CBO has not released a cost estimate on the measure.

Greg Mesack, 226-2305

To Provide for the Adjustment of Status of Certain Syrian Nationals

H.R. 4681

House Committee on the Judiciary
Introduced by Mr. Lazio *et al*. on June 15, 2000

Floor Situation:

The House is scheduled to consider H.R. 4681 under suspension of the rules on Tuesday, July 11, 2000. It is debatable for 40 minutes, may not be amended, and requires a two-thirds majority vote for passage.

Summary:

H.R. 4681 directs the Attorney General to adjust the status of an alien who (1) is a Jewish national of Syria; (2) arrived in the United States after December 31, 1991, after being permitted by the Syrian Government to depart from Syria; and (3) is physically present in the United States at the time of filing a citizenship application (the spouse, child, or unmarried son or daughter of an alien will also be eligible for adjustment of status). Also, someone who fits the prerequisites will be lawfully admitted for permanent residence if he/she (1) applies for adjustment of status no later than one year after the date of enactment or has applied for adjustment of status under the Immigration and Nationality Act before the date of enactment; (2) has been physically present in the United States for at least one year after being granted asylum; (3) is not firmly resettled in any foreign country; and (4) is admissible as an immigrant under the Immigration and Nationality Act (INA) at the time of examination for adjustment of such alien.

The total number of aliens whose status may be adjusted under this section may not exceed 2,000. The Attorney General will establish a record of the alien's admission for lawful permanent residence as of the date one year prior to the date of approval of the application. Also, the Attorney General will provide applicants for adjustment of status the same right to, and procedures for, administrative review that are provided to applicants for adjustment of status under the INA. Whenever an alien is granted the status of having been lawfully admitted for permanent residence, the Secretary of State will not be required to reduce the number of immigrant visas authorized to be issued under any provision of the INA. The fact that an alien may be eligible to be granted the status of having been lawfully admitted for permanent residence under this bill will not preclude the alien from seeking such status under any other provision of law for which the alien may be eligible.

Background:

Both President Bush and President Clinton conducted successful negotiations with the Government of Syria to bring about the release of members of the Syrian Jewish population and allow their immigration to the United States. In order to accommodate the Syrian Government, the United States was required to admit these aliens by first granting them temporary nonimmigrant visas and subsequently granting them

asylum, rather than admitting them as refugees. The asylee status of these aliens has resulted in a long and unnecessary delay in their adjustment to lawful permanent resident status that would not have been encountered had they been admitted as refugees. This delay has impaired these aliens' ability to work in their chosen professions, travel freely, and apply for naturalization.

Committee Action:

This bill was not considered by a committee.

Kimberly Torrence, 226-2302

Mobile Telecommunications Sourcing Act

H.R. 4391

Committee on the Judiciary
No Report Filed
Introduced by Mr. Hyde *et al.* on May 4, 2000

Floor Situation:

The House is scheduled to consider H.R. 4391 under suspension of the rules on Tuesday, July 11, 2000. It is debatable for forty minutes, may not be amended, and requires a two-thirds majority vote for passage.

Summary:

H.R. 4391 addresses one of the more difficult issues in our new technological age and the ubiquitous use of cell phones—where is the primary place of taxation for mobile telecommunications services? The bill addresses this problem by setting forth rules for determining State and local government treatment of charges related to mobile telecommunications services. The bill establishes the phone customer's "place of primary use", either the user's home or office. Under the bill, telephone service cannot be taxed where the call is made or received or based on which jurisdiction it may pass through, which resolves the issue of exposing consumers to multiple taxing schemes. The bill also provides uniform definitions for electronic databases, for nationwide standard numeric jurisdictional codes, what constitutes charges for mobile telecommunications services, who is considered a "customer," and who is a "reseller" of telecommunications services. For the purpose of determining the place of primary use a "customer" is the person or entity that contracts with the home service provider for mobile telecommunications services, or if the end user of mobile telecommunications services is not the contracting party, the end user of the mobile telecommunications service is considered the customer. H.R. 4391 is not intended to interfere with the Internet Tax Freedom Act or the Telecommunications Act of 1996 or its implementation. It does not create any new taxes or remove existing taxes on telecommunications service.

Background:

The cellular phone industry is growing at a rapid rate, resulting in increased competition and decreasing rates. According to the Cellular Telecommunications Industry Association, more than 80 million Americans were wireless telephone subscribers in 1999, compared to just four million in 1990. Currently, 238 million Americans may choose from among three or more wireless providers, and more than 165 million can choose from five or more. The average per-minute rates dropped by roughly 50 percent between 1990 and 1999 in markets throughout America.

The rapid rise of the cellular phone industry has resulted in confusion over how to apply taxes originally designed for stationary, landline phones to mobile phones. Most telephone tax systems were established in the mid-20th century and were imposed by state and local jurisdictions within their boundaries. States

and localities have adopted a variety of methods for taxing cell phone calls; some impose taxes in the jurisdiction where the call originates, others in the area where it is received. This often results in confusion, since one call may be taxed multiple times. H.R. 4391 establishes a nationwide standard for taxing cellular phone calls in the jurisdiction of the customer's work or home address**.**

CBO/Committee Action**:**

A CBO estimate was not available at press time.

The bill was reported by voice vote on May 24, 2000.

Eric Hultman, 226-2304

Marriage Penalty Tax Elimination Reconciliation Act

H.R. ___

Committee on Ways and Means
No Report Filed
Submitted by Mr. ___

Floor Situation:

The House is scheduled to consider H.R.__ during the week of July 10, 2000. The Rules Committee will meet on Tuesday, July 11, 2000 at 5:00 p.m. to consider a rule for H.R.___. Additional information on the rule and potential amendments will be provided in a *FloorPrep* prior to consideration.

The budget resolution, H.Con.Res. 290, allows subsequent reconciliation bills to be used to provide tax relief. Because the Senate has not been able to limit debate or overcome a potential filibuster on H.R. 6, The Marriage Penalty Tax Elimination Act, the Republican Leadership decided to proceed with marriage penalty tax elimination as the first reconciliation bill. By considering the elimination of the marriage penalty tax under reconciliation protections, amendments and debate can be limited in the Senate. As H.R. ___ affects revenue (and therefore must originate in the House under the Constitution), the House must reconsider the Marriage Penalty Tax Elimination provisions of H.R. 6, but in a reconciliation bill (H.R. ____), which will be afforded reconciliation protection in the Senate.

Summary:

H.R.___ contains several initiatives to reduce the impact of the "marriage penalty" inherent in the tax code. Specifically, the bill provides $182.3 billion in marriage penalty tax relief over 10 years ($50.7 billion over five years) by changing the tax code in the following manner:

* **Increasing the Standard Deduction**. The measure increases the standard deduction for married couples to twice that of single taxpayers beginning in 2001, providing $66.2 billion in tax relief over 10 years. In 2000, the standard deduction amounts to $4,400 for single taxpayers but just $7,350 for married couples who file jointly (*e.g.*, were the bill effective in 2000, the standard deduction would amount to $8,800, double the $4,400 amount for singles).

* **Expanding the 15 Percent Tax Bracket**. H.R. ___ increases the 15 percent tax bracket for married couples who file jointly to twice that of single taxpayers beginning in 2003, phased in over six years (providing $104.7 billion in tax relief over 10 years). Under current law, the 15 percent bracket covers taxpayers with taxable income up to $26,250 for singles and $43,850 for married couples filing jointly. If the measure were in effect today, married couples would pay the 15 percent tax rate on their first $52,500 of taxable income, instead of on their first $43,850 under current law.

* **Increasing the Earned Income Tax Credit**. Beginning in 2001, the bill increases by $2,000 the amount a joint-filing couple may earn before their earned income tax credit benefits begin to phase out. This provision provides $11.4 billion in tax relief over 10 years. The proposal increases EITC payments to

existing family recipients and makes additional families eligible for the credit.

Married couples generally are treated as one unit that must pay taxes on the couple's total taxable income. Although they may elect to file separate returns, the rate schedules and other provisions are structured in such a way that filing separate returns usually results in a higher tax than filing a joint return. Other rate schedules apply to single persons and to single heads of households.

Background:

Although reducing the "marriage penalty" has widespread and bipartisan support— President Clinton championed reducing this burden on couples during his State of the Union address—the bill is controversial. Supporters of the measure argue that it includes common-sense reforms for low- and middle-income couples who unfairly pay more in taxes than they would if they were taxed as individuals. They argue that the current tax code punishes working couples by pushing them into a higher bracket and that this measure simply restores some semblance of fairness to the tax code. Finally, they contend that the president's meager plan is nothing more than cosmetic window-dressing that essentially retains the status quo.

Opponents of the measure counter that the bill is too expensive and that we should enact a smaller marriage penalty package (like the president's proposal) targeted only to low-income individuals, not one that is skewed towards the wealthy. Other critics argue that we should not confer billions of dollars in "marriage penalty tax relief" to millions of married families that already receive marriage bonuses. Finally, they argue that the bill was hastily cobbled together and that bill proponents are rushing the proposal through Congress without bipartisan consultation.

What is the Marriage Penalty?

Many people argue that the individual income tax should be marriage-neutral (*i.e.*, the tax system should not influence the choice of an individual's marital status). However, defining the married couple as a single tax unit under the federal income tax code conflicts with the principle of marriage neutrality. Under the current federal income tax system, some married couples pay more income tax than they would as two unmarried singles (a marriage tax penalty), while other married couples pay less income tax than they would as two unmarried singles (a marriage tax bonus). As a general rule, two-income married couples whose earnings are evenly split (no more than 70-30) suffer from the marriage penalty, while those couples whose income is largely attributable to one person generally receive a marriage bonus.

Distribution of Marriage Penalties and Bonuses

According to the American Institute of Certified Public Accountants, there are 66 provisions in the tax code that produce marriage penalties, which affect two disparate sets of taxpayers for different reasons. The middle and top of the income distribution account for 55.6 percent of all marriage penalties. For low-income couples, however, the earned income tax credit (EITC) generates most penalties (accounting for 19.5 percent of all marriage penalties). The remaining 24.6 percent of marriage penalties come from 63 other provisions in the tax code, including the alternative minimum tax, the child-care credit, and the mortgage interest deduction.

Whether a couple incurs a marriage penalty or receives a bonus depends on the division of earnings between the spouses and on the couple's total income. A couple with a $60,000 income earned equally by the husband and the wife will have a marriage *penalty* of $880. In contrast, if the couple's $60,000 income were earned entirely by one spouse, the couple would receive a *bonus* of $3,764. In both cases, the penalty or bonus results from different tax brackets and standard deductions for single and joint filers. For low-income filers, the EITC causes the largest marriage penalties. For example, a couple with two children and each spouse earning $16,000 would incur a penalty of more than $4,000, almost all of which comes from the loss of the earned income credit when they file jointly.

How Many Couples are Affected?

Congressional Budget Office (CBO) Study. A 1997 CBO study indicated that more than 21 million married couples (42 percent of joint filers) incurred an average marriage penalty of nearly $1,400, whereas another 25 million couples (51 percent) enjoyed a marriage bonus that averaged $1,300.

Treasury Department Study. In 1999, according to the Treasury Department, of the 51.4 million joint returns filed, 24.8 million (48 percent) incurred a marriage penalty, 21 million received a marriage bonus (41 percent), and the remaining 5.6 million (11 percent), many of whom had no tax liability, had neither a penalty nor bonus. According to the department, the average marriage penalty amounted to $1,141 in 1999 and the average marriage bonus was $1,274.

Clinton Administration Plan

In January, President Clinton outlined his own plan to reduce the impact of the marriage penalty, which the White House estimates will provide approximately $45 billion in tax relief over 10 years. The proposal increases the standard deduction for two-income married couples to twice that of single filers and by $500 for single-earner married couples and $250 for single filers. The proposal also raises the income level at which the EITC begins to phase down for married families, as well as the level at which the EITC phases out for such families. The plan does not call for expanding the 15 percent tax bracket (unlike the House bill). Proponents of the president's proposal argue that it targets tax relief primarily to those couples who face marriage penalties (*i.e.*, two earner couples).

History of the Treatment of Married Couples in the Federal Income Tax

The U.S. imposes income taxes not on individuals, as do most other industrialized nations, but on couples, regardless of the division of incomes between spouses. Marriage penalties and bonuses are not deliberately intended to punish or reward marriage, but are the result of a delicate balance among disparate goals of the federal income tax system. On one hand, the tax code seeks to levy the same tax on couples with the same income. Conversely, it tries to minimize the effect of marriage on a couple's tax liability. However, a tax structure with progressive rates cannot attain both goals. The incompatibility of progressive rates, equal treatment of married couples, and marriage neutrality results in a continuing tension within the tax code.

At its inception in 1913, and for the next 35 years, the federal income tax was levied on individuals, so marriage had no effect on a couple's tax liability. Individual filing remains the practice in most other industrialized countries. In the United States, however, following the rapid expansion of the income tax during World War II, some states enacted community-property legislation to enable couples to split their

income and thus pay lower federal income taxes.

Introducing Joint Filing. In response, Congress enacted the 1948 Revenue Act (*P.L. 80-471*), which replaced individual filing with a system of joint filing for married couples. Under that status, most married couples paid lower taxes than they would if they were taxed as individuals—marriage "bonuses" were thus born. However, many single taxpayers viewed joint filing not as a bonus for couples but instead as a "singles' penalty" that made them pay higher taxes (as much as 42 percent more) than if they were married.

Under pressure from those taxpayers, Congress enacted the 1969 Tax Reform Act (*P.L. 91-172*) that changed income tax brackets to limit "singles' penalties," lowering taxes on individuals in relation to married couples (though it did not fully eliminate the "singles penalty"). This legislation created marriage "penalties" for the first time while continuing marriage bonuses for others.

Creating the Earned Income Tax Credit. Subsequent tax legislation has altered the size of penalties and the couples they affect. The 1975 Tax Reform Act (*P.L. 94-12*) created the Earned Income Tax Credit (EITC), a refundable credit available to low-income families with children. However, it also created a new source of marriage penalties for those families. Subsequent expansions of the credit have worsened its impact.

Complaints from two-earner couples about the "marriage tax" led President Reagan and Congress to reduce taxes for those couples as part of the 1981 Economic Recovery Tax Act (*P.L. 97-34*), which established a two-earner deduction equal to 10 percent of the earnings of the lower-earning spouse, up to a maximum deduction of $3,000. The deduction reduced the marriage tax for all couples that incurred the penalty, and eliminated it entirely for some, but increased the size of the marriage bonus for others.

Tax Reform and Simplification. The 1986 Tax Reform Act (*P.L. 99-514*) repealed the two-earner deduction from the 1981 law as part of a broad tax reform package pushed by President Reagan that increased the standard deduction for married couples and collapsed the tax schedule from 15 brackets with a maximum rate of 50 percent to just two brackets with a maximum rate of 28 percent. That flattening of the tax rate structure sharply reduced the incidence and size of marriage penalties and bonuses. However, tax increases in 1990 and 1993 expanded the number of tax brackets from two to five, raised the maximum marginal tax rate to 39.6 percent, and sharply increased the size and coverage of the earned income tax credit. Together, these changes imposed significantly larger marriage penalties on both low- and high-income families and increased the size of the marriage bonus for some couples.

Contract with America. As the crown jewel of the *Contract with America*, Congress passed a comprehensive tax package (H.R. 2491; *H.Rept. 104-350*) that included, among other things, measures to reduce the impact of the marriage penalty. However, President Clinton vetoed the measure.

In addition, while the 1997 Taxpayer Relief Act (*P.L. 105-34*) did not include initiatives to reduce the marriage penalty, it had the unintended result of creating additional marriage penalties and bonuses by phasing out eligibility for individual retirement arrangements and child and education credits over various income ranges.

Last year, Congress passed the 1999 Taxpayer Refund & Relief Act (H.R. 2488; *H.Rept. 106-289*) to provide approximately $792 billion in broad-based tax relief over 10 years, including $117 billion in

marriage penalty tax relief (very similar to the provisions outlined in the current House plan). However, President Clinton again vetoed the measure.

Increase in Two-Earner Couples

Besides congressional action, increases in labor force participation and the earnings of married women in the past 25 years have brought substantial shifts in the mix of taxpayers incurring penalties and receiving bonuses. Between 1969 and 1995, the fraction of working-age couples in which both spouses earned income increased from 48 percent to 72 percent. Over the same period, the income gap between husbands and wives in two-earner couples narrowed substantially. Those two changes—an increase in two-earner couples and greater equality of spouses' earnings—occurred for couples at all income levels, in all age categories, and regardless of whether they had children. The trend toward greater earnings equality between spouses is likely to result in more couples experiencing marriage penalties and to a greater degree.

The history of the changing taxation of couples and individuals demonstrates the tension between imposing higher taxes on one group or the other with a progressive rate structure. Taxing individuals, as was the case when the income tax began, avoids the problem of different taxes based on marital status but runs afoul of the principle of taxing married couples equally. The 1948 "solution" of joint taxation dealt with this problem but imposed higher taxes on individuals in relation to married couples, thus violating the principle of marriage neutrality. The last five decades have witnessed periodic movements between those two poles, depending on the demands for fairness toward individuals or couples. As long as Congress pursues the three mutually incompatible goals of marriage neutrality, equal treatment of couples with similar incomes, and progressive tax rates, this tension will endure.

Costs/Committee Action:

CBO did not complete a cost estimate for the bill. The Joint Committee on Taxation estimates for enactment of H.R. 6 are available at www.house.gov/jct/x-6/00.pdf and www.house.gov/jct/x-3-00.pdf At press time, a cost estimate of H.R. __ was not available.

The Ways & Means Committee reported H.R. 6 by a vote of 23-13 on February 2, 2000.

Other Information:

For information on H.R. 2488 as it was debated in the House, see *Legislative Digest*, Vol. XXVIII, #19, Pt. II, July 19, 1999; and #23, Pt. IV, August 4, 1999.

"Marriage and the Federal Income Tax," Testimony before the Ways & Means Committee by CBO Director June E. O'Neill, February 4, 1998; "Marriage Tax Penalties: Legislative Proposals in the 106th Congress," *CRS Report 98-679*, August 12, 1999; "For Better or For Worse: Marriage and the Federal Income Tax," *Congressional Budget Office* Study, June 1997; "Defining and Measuring Marriage Penalties and Bonuses," *Office of Tax Analysis*, Department of the Treasury, November 1999; Testimony by David Lifson from the American Institute of Certified Public Accountants before the Ways & Means Committee, January 28, 1998; "Overview of Conference Agreement for H.R. 2488," *Joint Committee*

on Taxation, August 4, 1999; "Major Tax Issues in the 106th Congress: A Summary," *CRS Issue Brief 10013*, January 31, 2000.

Courtney Haller, 226-6871